

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Appeal Petition filed by Sri Kasa Venkataramana S/o Appa Rao, Clerk, Godavari Grameena Bank, Marripadu, East Godavari District filed under Section 7(2) of Act 6 of 1993 against the Proceedings dated 22.12.92 of the Joint Collector, East Godavari District –Appeal rejected – Orders – Issued

SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No. 83

Dated: 25-7-2009
Read the following:

- 1.Proceedings of the Joint Collector, East Godavari District Ref.No. B/10667/91, dated 22.12.1992.
- 2.From the APHC. directions dated 2012.2004 in W.P.No.254 of 1993 .
- 3.Appeal Petition filed by Sri Kasa Venkataramana S/o Appa Rao, Clerk, Godavari Grameena Bank, Marripadu, East Godavari District dated 12.1.2005 before Hon'ble C.M.
- 4.Govt.Memo 585/CV.2/2005-1, dated 23.2.2005.
5. Letter from the District Collector, East Godavari Ref.C5/SCB/19/97, dated 7.5.2005.
- 6.Govt.Memo No. 585/Cv.2/2005-3, dated 20.8.2007.

ORDER:

Sri Kasa Venkataramana S/o Appa Rao, Clerk, Godavari Grameena Bank, Marripadu, East Godavari District has filed an appeal petition under Section 7 of Act 16 of 1993 against the Proceedings dated 22.12.1992 of the District Collector, East Godavari and submitted the following grounds:-

- a. The impugned orders of the Joint Collector is grossly illegal, arbitrary, capricious and based on surmises conjunctures.
- b. The Joint Collector has entrusted the enquiry to MRO and completely relied upon the report sent by MRO which is made behind the back of the petitioner and without supplying copy of the MRO's report to the petitioner.
- c. The Joint Collector has completely relied upon the surname of the petitioner and maternal grand parents of the petitioner, which lead him to a wrong conclusion, and is contrary to law and facts.
- d. The Joint Collector without considering and without giving credence to the unimpeachable documentary and oral evidence placed by the petitioner, which stood un rebutted, had wrongly come to the conclusions that the petitioner is "Kapu" and cancelled his certificate erroneously. The Sarpanch and the Ex-Sarpanch of the village and the members of the Panchayat, the Ex-Vice-President of the village and several elderly persons of the village of Lagarai categorically declared that the petitioner belongs to "Konda Kapu" community. The said persons surnames also prominent in plain areas, which fact is ignored by the Joint Collector, without applying his mind, and erroneously came to a conclusion that the surname of "Kasa" belongs to Kapu community.

- e. The Joint Collector ought to have seen that Kondakapu is a subdivision of Kapu and that "Kapus" settled down in the hill area are recognized as Kondakapus as held by the Government of Madras in respect of Kapus of Godavari and Visakhapatnam Districts of A.P. and ought to have confirmed and certified that caste certificate of petitioner given by Tahsildar, Yellavaram, as genuine instead of canceling the same.

2. The Govt. in Memo 4th read above, the District Collector, East Godavari was requested to furnish parawise remarks and connected records on the appeal petition filed by Sri Kasa Venkataramana. The District Collector, East Godavari District has since furnished the records. The District Collector, East Godavari has furnished the following remarks on the appeal petition:-

- a.. The orders of the Joint Collector is not illegal arbitrary, capricious and not based on surmises and conjunctures. The orders are quite legal and justifiable.
- b. The Joint Collector has not committed any errors in coming to the conclusion in canceling the bogus caste certificate of the appellant, as the appellant obtained the bogus caste certificate with an intension to grab the benefits provided to the real Scheduled tribes by the constitution of India. Hence the Joint Collector rightly concluded his caste status "Kapu" (OC) and the order is quite legal, which protect the right of the tribals. Enquiry was conducted as per the guidelines issued by the Government from time to time.
- c. The Mandal Revenue Officer is the competent authority to enquire into the caste status of the individual and it is not true and correct to say that the Joint Collector completely relied upon the report of the Mandal Revenue Officer. The Joint Collector gave sufficient opportunity by allowing sufficient time to the appellant to adduce any evidence before the Joint Collector in support of his caste claim, but he could not produce any reliable documents at the time of enquiry, even though the burden of proof lies on the Appellant and even though ample time was granted. The appellant was therefore issued a Show Cause Notice to establish his caste status as (ST) and provided an opportunity of personal hearing. But he failed to produce necessary evidence in support of his caste claim. In his explanation he had stated that they are being treated as Konda Kapu (ST) which was not proved in the enquiry conducted in the village. The petitioner contended that the enquiry of the Mandal Revenue Officer made behind his back, without supplying copy of Mandal Revenue Officers report. This contention of the Appellant is denied. In fact the Mandal Revenue Officer conducted enquiry openly and also recorded statements from the villagers of Lagarai. The enquiry report of the Mandal Revenue Officer may not be furnished to the Appellant. But in the Show Cause Notice issued to the appellant, it was clearly mentioned the contents of the Enquiry report of the Mandal Revenue Officer. In reply to the Show Cause Notice the individual has not denied the contents of the Show Cause Notice. The individual not produced any documentary evidence in support of his caste claim. The Joint Collector examined the wirtnesses produced by the appellant and issued orders after perusal of the enquiry reports as well as the explanation offered by the Appellant. Hence the contents of the petitioner are not true. The contention of the petitioner in that the enquiry was made behind the back of the petitioner and without supplying copy of the Mandal Revenue Officer's report to the petitioner. The Hon'ble High Court of A.P. held in W.P.No.11051/88 held that "Gathering material and recording statements behind the party affected is not violative to the principles of natural justice to the party

affected. Cross-examinations of witnesses is not an integral part in all quasi judicial adjudications. It is not proper to say that the Joint Collector has completely relied upon the (surname) of the petitioner and maternal grand parents which lead to a wrong conclusion is not correct. The Joint Collector not only relied on the surname of the petitioner but also relied on the merits of the case. On enquiry with the villagers of Lagarai (V) of Rajavommangi and Sarabhavaram Village & Mandal, it is revealed that the Appellant's father and forefathers are not the natives of Lagarai (v) and they have no relations with the co-tribals in the scheduled area. Moreover it is proved that they belong to "Kapu" (OC) Community and does not belongs to "Konda Kapu" Scheduled Tribe community. The Appellant failed to produce any documentary evidences at any point of time during the enquiry and not submitted the genealogical particulars of their family and their relations with the co-tribals with an apprehension that his caste may be proved false. Hence the conclusion of the Joint Collector is not contrary to the law and facts. The appellant was never requested for supply of copies of enquiry reports of the Mandal Revenue Officer, Rajavommangi. The contents of the enquiry report was mentioned in the Appellant show cause notice in Ref.B2/10667/91, dated:29-4-92 and he submitted his explanation by personnel appearance.

- c. The appellant failed to submit any valied documents in support of his caste claim except the "Konda Kapu" caste certificate which is in dispute now, and the school records which are not a conclusive proof to decide the caste status of the individual.. The conclusion of the Joint Collector that the petitioner is Kapu is quite correct both in law and facts. It was observed that the sarpanch ex-sarpanch and members of the panchayat are not competent to issue caste certificate as per the Act and rules in existence. The "surname" "Kasa" was not found in the list of Konda Kapu surnames furnished by the Konda Kapu Association.
- d. The contention of the Appellant that the Joint Collector ought to have seen that "Konda Kapu" is a sub-Division of Kapu and that "Kapu's settled in the hill area are recognized as "Konda Kapu's" by the Government of Madras, is not correct. "Kapu" and "Konda Kapu" are different, castes and the "Konda Kapus" only are recognized as scheduled Tribes in the Presidential Order. Moreover the culture, ethnological traits, mode of marriages, food habits death and marriage ceremonies of Konda Kapus are different from that of "Kapu' OC community. The Appellant is sailent about his customs and traditions. Therefore it is not fact that the "Konda Kapu" is a sub-division of "Kapu"

3). The case was posted for personal hearing on 23.7.2007 and 16.8.2007. The appellant and his counsel were absent twice. Further the case was posted for hearing on 31.8.2007. The appellant absent and his Counsel attended and argued the case and submitted written arguments on 13.9.2007.

4) On careful examination of the grounds for the appeal, enquiry reports, records and material and parawise remarks of the District Collector, East Godavari on the appeal petition it is found that:

1. The appellant is mainly basing his ST status claim on (a) entry of his caste as "Konda Kapu" in his Transfer Certificate, (b) Caste Certificate issued by the Tahsildar, Yellavaram, (c) caste certificate issued by the Sarpanch, Gram Panchayath, Lagarai Village. (d) Certificate issued by the Mandal Praja Parishad Prsident, Rajavommangi and (e) the statements of certain people of his village Lagarai.

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2. It is observed that, caste entry in school records is not authentic and not conclusive proof of the caste of the individual because such entries are made simply on self declaration of the parents without any verification, that the caste certificate issued by the Tahsildar, is based on the above entry in the Transfer Certificate of the individual without conducting any enquiry that the Sarpanch and Mandal Praja Parishad President are not authorized to issue caste certificates. Statements of certain villagers in favour of the appellant and certain other villagers against him cannot be considered.
3. The contention of the appellant that Kondakapu is sub-division of Kapu, those people living in hills are Kondakapu as held by the composite Madras State is not correct as he could not show any evidence in this regard. Further in the Book, Castes and Tribes of Southern India by Edgar Thurston, 1909, it is mentioned that Konda Doras are completely at the mercy of late immigrants, so much so that, though they call themselves Konda Doras, they are called by the Bhaktas their immediate superiors, Konda Kapus. If they are found living in a village with no Telugu superior, they are known as Doras. If on the other hand, such a man is at the head of the village affairs, they are to him, as adscripti glebae and are denominated Kapus or ryots (cultivators).
4. In view of the above it is clear that the grounds of the appellant are not tenable and the appellant could not produce any valid evidence in support of his ST Konda Kapu status claim.
- 5) Therefore, in exercise of the powers conferred under Section 7 of Act 16 of 1993 and Rules made there under, the appeal petition filed by Sri.Kasa Venkataramana S/o Appa Rao, E.G.District is hereby rejected, upholding the orders of the Joint Collector, E.G. in Proceeding Ref.No.B/10667/91, dated 22.12.1992. The stay granted in reference 4th read above is hereby vacated.
- 6) The records received from the District Collector, East Godavari in reference 5th read above are herewith returned to him and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K. TIGIDI,
PRINCIPAL SECRETARY TO GOVT.

To
The Collector & Dist.Magistrate,
East Godavari District (WE). Original records
File bearing No.R.Dis.2/10667/91, containing pages 128 cf.
Sri Kasa Venkataraman S/o Appa Rao, Clerk,
Godavari Grameena Bank,
Marripudi, Rangampeta Mandal, East Godavari District
M/s M.Ravindra Babu, Advocate,
603, "A"Block, Mathrusri Apts., Near Old MLA Quarters,
Hyderguda Main Road, Hyderabad 500 029.
Copy to:
The PS to M(TW & RIAD)/PS to Prl.Secy.(TW)
The Chairman, Godavari Grameena Bank (Head Office),
Rajamundry, East Godavari Dist.
The CCLA., Hyderabad.
The DTW., Hyderabad.
SF/SC.

//Forwarded::By Order//

SECTION OFFICER.